D.B. CIVIL SPECIAL APPEAL(W)NO.196/2006

Jagdish Prasad
Vs.
Jagdish Chandra & Ors.

Date of Order :: 10-10-2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Suresh Shrimali, for the appellant.
Shri Manish Shishodia, for the respondents.

By the impugned order, the learned Single Judge declined to interfere with the order of trial Court rejecting the appellant's application for amendment under Order 6 Rule 17 of the Code of Civil Procedure. By the proposed amendment the appellant-plaintiff in the Court below wanted to bring on records facts relating to sale of the suit property by the defendant. The learned Single Judge noted that suit had been filed on 24.7.1999 whereas the transfer was made on 6.1.2003, and therefore it would be governed by the principle of lis-pendence under Section 52 of the Transfer of Property Act. We find no error in the order.

We may observe that in terms of Order 6 Rule 17 of the Code only such amendments are to be allowed which “may be necessary for the purpose of determining the real questions in controversy between the parties.” In other words, the proposed

amendment must have nexus with the questions/issues to be decided in the suit. It hardly need be pointed out that on pleadings of the parties, issues are framed and parties are required to lead evidence to prove their case with reference to these issues. The fact that the defendant sold property during pendency of the suit has no nexus with the questions or issues in controversy. As such, we find no error in the order of the learned Single Judge declining to interfere in the matter.

The appeal stands dismissed.

[MOHAMMAD RAFIQ],J. [S.N.JHA],CJ.

Praveen